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THE  
CHURCHMAN

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AUGUST, 1894.

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ART. I.—THE POSSESSIONARY TITLE CLAIMED FOR  
THE PAPACY AND THE RE-DEDICATION OF  
ENGLAND.

THE possessionary title of a thousand years, which the Italian hierarchy in England have claimed for the Papacy, and the singular ceremony with which they inaugurated their "consecration" of our country to the Blessed Virgin Mary and St. Peter—in which Cardinal Vaughan represented the legate Pandulfus, the part of King John being prudently omitted—lead us to examine the grounds of a claim which has lain so long in abeyance; and the reason for this modern reproduction of a scene which patriotic Englishmen in every subsequent age have regarded as exhibiting the basest surrender which has ever been made of the honour and freedom of their country.

The claimant under such a title must prove that his possessorship has never been legally disputed—that he has successfully defended it against those who have impugned it—that no protest has ever been made against it during the centuries through which the possession is assumed to run—and that the property or possession is of such a nature as to justify the claim, and to enable the claimant legally to establish it.

I. We will prove, first—and this is a matter of history which is incapable of disproof—that, from the very entrance of the Conqueror into England until the day when the very last entanglements of the Papal rule were torn asunder at the Reformation, the history of England has been a constant struggle against Rome, an uninterrupted protest against her supremacy.

The Roman advocates here bring against us the institution of the Peter-pence as a token of our Roman allegiance. But this payment was eleemosynary, and not a tribute. It is called in the laws of Canute, "*Larga Regis benignitas*"; and

by the Confessor, "*Regis eleemosyna*"; and so it is called by Pope Paschalis II. in a letter to King Henry I., "*Eleemosyna B. Petri*." Because the Popes in Edward III.'s time took part with the French, that king commanded that the Peter-pence should no more be paid. Its entire history indicated that it was a charitable foundation, and that the Pope was rather the king's almoner than the king the Pope's tributary. The statute of 25 Henry VIII., c. 21, sweeps away every one of the payments claimed by the Popes, and by which they had so cruelly impoverished England to support the luxury of the most corrupt Court in Europe. Nor did Mary on the restoration of the Papal power during her brief reign attempt to reimpose these ruinous exactions. The proofs of the supremacy of the Crown as against the Papacy succeed one another in an unbroken chain from the earliest period.

(1) All councils and convocations were assembled by the king's appointment, "*jubente et presente Rege*," nor was any synodical decree valid but with the assent of the king.<sup>1</sup>

(2) No legate was suffered to enter into England but by the king's leave.

(3) No appeals to Rome were permitted.

(4) The famous statute of *Provisors* (25 Edward III.) enacted that all who obtained *provisions* (preferments by anticipation of the Pope) from Rome should be out of the king's protection, and dealt with as his enemy.

(5) The statutes of *Præmunire* are too well known and were too fatally evaded, until their penalty was incurred by the clergy and remitted by Henry VIII., to need any special reference. Enough to add the statute of Richard II. (an. 16), in which it is declared that "the Crown of England hath been so free at all times that it hath been in subjection to none, but immediately subject to God, and none other; and that the same ought not, in anything touching the regality of the said Crown, to be submitted to the Bishop of Rome, nor the laws and statutes of this realm by him frustrated and defeated at his will." In the same statute the Commons complain that "by bulls and processes from Rome the King is deprived of that jurisdiction which belongs of right to his imperial Crown . . . that the King's laws are defeated at his will; the treasure of the realm is exhausted and exported to enrich his Court; and that by these means the Crown of England, which hath been ever free and subject to none, but immediately unto God, should be submitted unto the Bishop of Rome, to the utter destruction of the King and the whole realm, which God defend." They therefore pray the king to consult the Lords

<sup>1</sup> "Gervas. Dorovern.," ad An. 1175.

in Parliament what they thought of these wrongs and usurpations; which being done, the Lords spiritual and temporal answered that these usurpations of the Bishop of Rome were against the liberties of the Crown, and that they were all bound by their allegiance to stand with the king, and to maintain his honour and prerogative.<sup>1</sup> From the day when William the Conqueror forbade Lanfranc to obey the citation of Gregory VII. to visit Rome until the day of Henry VIII. the protests against the Papacy have gone on in a regular chain of succession during the reigns of Edward III., Richard II., Henry IV., Henry V., Henry VII., Henry VIII., so that the possessionary title has been disturbed from the very first, and the appeal to it is shown to be groundless and even preposterous.

II. We proceed in the second place to show that, even if possession had been undisputed and unchallenged for the thousand years which are claimed for it, it would not hold good against the indefeasible rights of truth and equity, if the root of the title is bad. And here we are content to appeal to the *regulæ juris*, both of the civil and canon law, and to rest our defence upon the clear principles of natural law which are there laid down. First, we approach the inevitable and interminable Petrine claim, of which the memorial of the kingdom of England, presented by Bishop Hallam to the Council of Constance, A.D. 1415, complained that the "*Tu es Petrus*" was the only text quoted in that day by the clergy, and expressed the wish that "those who so often allege it and so little understand it would cease to produce it in dishonour to the law of Christ" ("*in contumeliam legis Christi*").<sup>2</sup> In this sense and with this result the Roman mission of our day have reproduced it, and reiterated it, as though its constant repetition were a sufficient sanction to their own interpretation of it.

(1) Against their view of it we allege that inexorable rule of the canon law :

*"Privilegium personale personam sequitur et extinguitur cum persona."*

"A personal privilege follows the person and dies with the person."

They admit that the privilege is a personal one, for it is given for a personal qualification, and as a reward for a personal act. Yet with a strange incompatibility they make it hereditary and transmissible, though the qualification which created it is incapable of following it.

<sup>1</sup> See "Staveley on the King's Supremacy," pp. 255-6.

<sup>2</sup> This exists in MS. in the Library of Trinity College, Cambridge, and is published in the Collection of the Acts of the Council of Constance by Von der Hardt (Tom. I., p. iv., page 1126).

(2) Against the claim arising out of a mere continued possession, we affirm that if the original title is bad the claim falls to the ground, for—

*“Possessor malæ fidei ullo tempore non præscribit.”*

“No prescription prevails in the case of an unlawful possessor.”

We affirm that the Church of Rome is in this case. Her possession has been obtained by a succession of frauds and forgeries, whose fictitious character she has herself been obliged to admit—the forged donations of Constantine and Pepin, the forged decretal Epistles, the corruption of the canons of the general councils and of innumerable passages of the Fathers, the misinterpretation of important texts in Scripture, including those on which she rests her Petrine claims. From all these considerations we affirm that she has proved herself to be a *“possessor malæ fidei,”* and therefore to have no claim to prescription.

But a still stronger *caveat* against the possessionary title is presented to us by the law:

*“Non firmatur tractu temporis quod de jure ab initio non subsistit.”*

St. Cyprian said truly, *“Consuetudo sine veritate est vetustas erroris.”* Our appeal is to first beginnings and to unchangeable principles. We say, in the words of our Lord, of Romish novelties, *“From the beginning it was not so”* (Matt. xix. 8). A corrupt custom (like the Jewish practice of divorce) cannot be pleaded against an original law or a first principle, however ancient it may be. The freedom given us by Christ cannot be surrendered for the slavery of the Papacy on the mere ground that we were enslaved on our very conversion to Christianity, and had to vindicate our freedom by constant efforts to cast off the yoke, which were only successful in the age of the Reformation. When once we found that our bondage did not exist *de jure*, we were justified in determining that it should no longer exist *de facto*.

But if the inflexible rules of the civil and canon law destroy the claim of the Papacy at its very root, its vast and tangled branches must share the same fate; and the Bullarium Magnum, as well as the whole mass of Papal legislation, must become mere *pondera ad ruinam*. This would follow from another rule of law, which declares, *“Quæ a jure communi exorbitant, nequaquam ad consequentiam sunt trahenda.”* “Whatever constitutes a departure from the common law cannot be admitted in its consequences.” The privilege alleged for the Papacy cannot be carried out in its results. It involves a manifest violation of the common law of the Church by which an equality is established between all the bishops,

who are equally with the Bishop of Rome declared by the Council of Trent to be successors of the Apostles. The mere precedence of honour accorded to the Bishops of Rome from their presiding over the capital of the Empire, cannot be drawn on or extended into consequences which would be fatal to the principle of equality thus laid down. The primacy of honour, which is itself a departure from the common law of the Church, cannot be developed into a primacy of authority and government which would deprive the other members of the hierarchy of their due influence in the body, and break up that solidarity which St. Cyprian claims for the episcopate, "*cujus a singulis in solidum pars tenetur.*"

Another and a most important rule of law both civil and religious, was urged against the exclusive and arbitrary course of the Papacy in the Council of Basle :

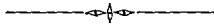
"*Quod omnes tangit ab omnibus approbari debet.*" "What touches all ought to be approved by all." Now certainly nothing touches everyone more closely than the interests of the soul, nor can any man (in the words of Andrew Marvell) "atturn and indenture his conscience over to be represented by another." Unless the Pope can give us grace to enable us to believe (not to say to understand) his new and most obscure definitions of doctrine, we cannot be expected to give them credence or to receive them as necessary articles of faith. In a well-known and often-quoted passage of St. Augustine, he contrasts the rule of the law with that of the Gospel in the words, "The law says, 'Do what I command' (*Fac quod jubeo*). The Gospel asks, 'Enable us to do what thou commandest' (*Da quod jubes*)." The Pope can only command; he cannot enable. And yet he ventures to condemn and excommunicate all who venture even to doubt his unintelligible definitions, or to question the falsifications of doctrine and history which they involve.

The exercise of the authority which this possessory title is supposed to confer very speedily succeeded, or, rather, accompanied the assertion of the claim. It hardly seems reasonable to dedicate England to St. Peter until it has been "reconciled" to his *soi-disant* successor; nor yet to transfer to the Apostle any part of the "Dowry of Mary," as was done on this occasion. It would seem, however, that after England had been dedicated to the Blessed Virgin in the morning, in the evening it was dedicated to St. Peter. In what manner the two dedications were reconciled we are not informed; or what effect the later dedication had upon the earlier one; or in what manner the dowry was transferred, or perhaps divided. But the fact that this dedication was made by a single subject of the Crown on his own authority alone, and that he represented

a mere infinitesimal part of the inhabitants of the kingdom, gives an almost ludicrous character to the entire function. In any case, it has an air of unreality resembling the histrionic performance of the dethroned Pope, Petrus de Luna, at Pensacola, or the fictitious excommunication of the King of Naples, which used to be annually inflicted and removed with every appearance of consistency and solemnity. It would seem that the isolation of the Roman Catholic body from the great mass of their fellow-countrymen prevents them from seeing the effect of these eccentric proceedings on the bulk of our population. That they do not promote the interests of the Roman Church in England is only too clear; nor can they have any useful influence on those who are within her fold. It is time for them to turn from such puerilities to the great social and practical questions in which every Christian Church has an equal interest and a definite post of labour.

Not a thousand years' possession of the vineyard, even if they could prove it, would avail them anything unless they were working in it, for Christian labour is the only title to Christian possession. Thus only can they dedicate themselves in soul and body to Christ, a far higher dedication than any imaginary consecration of their country to St. Mary or St. Peter, for it is a living sacrifice, and not a mere ceremonial fiction. It is a relief to pass from the scene in which Cardinal Vaughan took so fruitless a part to the great work he is carrying on among the poorer members of his Church in East London, which cannot fail to bear the richest fruit in future years. This is a fruit which will remain according to our Lord's infallible promise, and its cultivation is a work in which every division of the labourers of Christ may unite in holy and active competition.

R. C. JENKINS.



## ART. II.—“THE HIGHER CRITICISM AND THE MONUMENTS.”<sup>1</sup>

PROFESSOR SAYCE'S writings are always welcome. His style is fresh, bright and clear; his method of treatment is lucid, healthy and suggestive; he collects and assort his materials well, and puts his case effectively; and he is thoroughly “up to date.” As a reasoner he is somewhat impulsive, almost too quick in jumping to conclusions, regardless of consequences, and perhaps a little too positive. He is so frank and outspoken

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<sup>1</sup> “The Higher Criticism and the Monuments,” by the Rev. A. H. Sayce. S.P.C.K., 1894.